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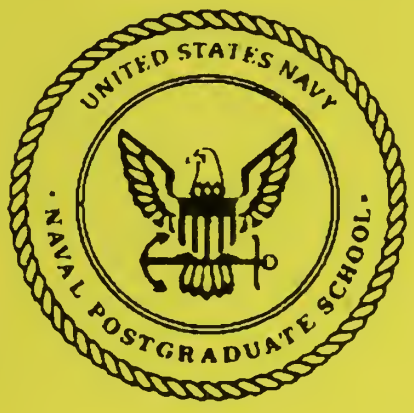

A NEW CASE FOR NAVAL ARMS CONTROL

BY
JAMES JOHN TRITTEN

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NAVAL POSTGRADUATE SCHOOL
MONTEREY, CALIFORNIA

Rear Admiral Ralph W. West, Jr.
Superintendent

Harrison Shull
Provost

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This paper opens with an examination of existing legal restraints on naval forces and arms control agreements and concludes that the U.S. is already heavily engaged in naval arms control. Given the new international security environment and the new U.S. regionally-oriented national security and military strategies, the author then recommends a series of additional naval arms control measures that should be taken: exchanges of data, transparency, INCSEA, cooperative measures, an agreement on the laws of submarine warfare, abolishing NCND, no first tactical nuclear use at sea, NWFZs, advanced notification of operational-level exercises, environmental protection measures, controls over maritime technologies, armed escorts of nuclear shipments, new Roes, PALs, the resolution of outstanding political issues at sea, deep cuts in nuclear forces, CFE follow-on, limits on specific types of naval forces, geographic limits, expanded standing naval forces, and a re negotiation of the ABM Treaty. The paper then addresses verification and compliance issues. Author concludes that since the U.S. Navy has already managed to avoid major arms control while balanced on the precarious "slippery slope," there is no reason to continue its stonewalling policies.

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A NEW CASE FOR NAVAL ARMS CONTROL

by
James J. Tritten[1]

Some would argue that the issue of naval arms control is dead, no longer a threat to our fleet, and not worthy of active consideration. On the contrary, the subject of naval arms control is alive and well, discussed often and vehemently in conferences routinely held throughout the world -- generally without the participation of the U.S. Navy. Attending these conferences gives one the impression that some nations of the world intend to create regulatory regimes that would first: oversee civilian merchant ships, such as the Japanese freighter that recently sailed with plutonium; then intrude into functional areas, such as the environment, that no Navy could object to; and eventually spill over into the direct regulation of naval warships.

This paper resurrects the issue of naval arms control and admits that it is something that the United States is doing anyway -- despite the oft-made argument that there is a dangerous "slippery slope" which threatens to scuttle the fleet. This paper then argues that there are a series of measure that the U.S. ought to get **more** involved with due to the changed international security environment. Rather than ignoring the issue of verification and compliance, this paper then includes a section on these two issues. It concludes with an examination of the issue of "stonewalling" on the subject of naval arms control.

This paper will use the term naval arms control in its most broad form. It includes actions taken in the formal form of treaties, less formal executive agreements, even less formal agreements between navies, and even unilateral measures -- as long as the action can be described as having met the fundamental criteria of arms control. The arms control community reached consensus in the early 1960s on three basic goals of arms control.[1] First, the likelihood of war should be reduced because of reduced military capabilities and a reduction in the fear over a surprise attack. Second, if war breaks out despite our best efforts, the limited availability and/or capability of weapons should reduce the consequences of the war. Third, there should be a reduction in the costs of maintaining military forces because of limitations on weaponry, personnel, and/or operations.

These criteria should be used to assess the worth of past agreements and the arms control measures discussed herein. A treaty or the lack thereof, are **not** serious measures of the effectiveness or success of a nation's arms control efforts. If

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1. The views expressed by the author are his alone and do not necessarily represent those of the U.S. government, Department of Defense, or the U.S. Navy.

these goals can be attained without a treaty or other formal arrangement, then contrived negotiations are unnecessary. Hence virtually any actions that meet the goals outlined above are considered naval arms control herein.

We Are Doing It Anyway!

The U.S. Navy has fostered the illusion that the firm position of the U.S. government is to not participate in any arms control agreements that involve naval forces. That assertion is simply an myth which does not bear up under the scrutiny of even a cursory review of existing arms control agreements.[2] Consider the following agreements which currently involve naval forces or operations:

Historical Naval Arms Agreements Still in Force

The 1817 Rush-Bagot Treaty between the U.S. and Great Britain restricted naval forces allowed on the Great Lakes -- naval arms control of numbers and types of forces in a specific geographic area designed to reduce the risks of war. This treaty remains in force today between the U.S. and Canada. The transit of U.S. naval forces through the Turkish Straits is regulated by the 1936 Montreaux Convention as another attempt to regulate the risks and/or consequences of war. The Montreaux Convention also regulates what warships may do while in transit through Turkish internal waters; e.g. they may not fly aircraft.

Transit by warships involves a special set of measures taken to control the actions of foreign warships. The 1888 Constantinople Suez Canal Convention was reaffirmed by the government of Egypt allowing the full transit of the canal by the warships of any nation, even in time of war. The provisions of the 1919 Treaty of Versailles, which ended World War I, required Germany to allow the passage of any warship through the Kiel Canal as long as Germany was at peace with that nation. The Kiel Canal provisions of the long-ago abrogated Versailles Treaty remain in force, however. The 1977 Treaty Concerning the Permanent Neutrality and Operations of the Panama Canal also provides for passage of warships, even in time of war. During passage through any canal -- as through any nation;s internal waters -- there are obvious restrictions on the activities of warships that provide a degree of security for the state through whose territory the canal passes or the state administering the canal. Such restrictions are accepted by the U.S. as customary international law.

Eight Hague Conventions signed in 1907 contain certain basic laws of war pertaining to the seas that attempt to regulate the consequences of war. These include: the status of enemy merchant vessels at the outbreak of war, the conversion of merchant ships into warships, the laying of automatic submarine contact mines, torpedoes, shore bombardment by naval forces during wartime, the right of capture, and the rights and duties of neutrals.[3] These Hague rules have long been accepted as binding on the United States as customary international law.[4] The 1949 Geneva Conven-

tions govern the immunity of hospital ships in a clear attempt to regulate the consequences of war.

The behavior of the U.S. Navy was recently called into question under these Hague Conventions regarding the shore bombardment of Vietnam and later in Lebanon by the *USS NEW JERSEY* in 1983. American behavior, under the Hague rules, has also been questioned with regard to the placement of naval mines first in Vietnam and later in Nicaragua.[5] The later resulted in a court case before the International Court of Justice. Although the U.S. argued that what it did was not contrary to international law, the existing regulations on the employment of naval weapons at sea were clearly obstacles that had to be considered by the operational commander.[6]

More Recent Regulations on Navy Conventional Forces

A series of agreements dealing with the law of the sea all contain measures which, in part, reduce the risks of war be defining the rights and duties of nations with respect to their jurisdiction over ocean space and the ships that they put to sea. The rights of foreign warships are restricted when passing through the territorial sea of another state in accordance with the 1958 Geneva Convention on the Law of the Sea (LOS), which the U.S. did sign and ratify, and the subsequent 1982 United Nations-sponsored LOS Treaty, which the U.S. did not sign. Most provisions of the 1982 LOS Treaty have been accepted by the U.S. as customary international law.

Similarly, the activities of warships transiting certain international straits and archipelagic waters are regulated by the law of the sea. When transiting international straits under the regime of transit passage, foreign warships are prohibited from the threat or use of force against the applicable coastal states. They are also to refrain from activities not part of those usually required for swift transit. Lesser restrictions apply for archipelagic transit. The rights of warships to board ships on the high seas, the right of hot pursuit, and rights over the continental shelves were also agreed to in these LOS treaties.[7]

Following a series of international incidents between the U.S. and the Soviet Union, these two countries, in 1989, agreed to a uniform interpretation of the rules on innocent passage through the territorial sea.[8] The earlier 1988 Regional Air Safety Agreement between the U.S., Japan, and the USSR and the 1989 U.S./Soviet Bering Straits Region Commission all contain confidence-building measures (CBMs) that extend to the ocean areas.

The 1972 U.S. and Soviet Incidents at Sea Agreement (INCSEA) had a major affect on the operating procedures that were then ongoing in the fleet.[9] In 1975, an additional protocol extended the provisions of this agreement to civilian ships. A subsequent 1989 bilateral Dangerous Military Activities (DMA) Agreement

expanded the transparency of our military actions to other warfare areas. Similar agreements have been signed by the USSR and other nations, including some of our NATO allies.[10] Russia will probably soon sign another with Japan. Such activities can be viewed either as genuine arms control measures, since they attempt to reduce the risks of war, or as CBMs. The U.S. Navy openly supports these agreements, but generally refrains from calling them arms control.

Amphibious exercises in the European theater have been voluntarily regulated for years by the 1975 Helsinki Final Act. Amphibious exercises, including the operations of naval forces involved in those exercises, were then similarly more formally governed by the 1986 Stockholm accords.[11] These agreements have now been superseded by the 1990 Vienna Document on Confidence- and Security Building Measures (CSBMs). We have promised to give 42 days notification of a Marine Expeditionary Brigade (MEB)-sized amphibious landing in Europe. Notification includes full disclosure of commands and forces involved and planned ship-to-shore gunfire and support.

The 1990 Conventional Armed Forces in Europe (CFE) Treaty includes a political commitment outside of the actual treaty framework to regulate the number of land-based combat naval aircraft in Europe.[12] This agreement is being renegotiated due to the demise of the Soviet Union but will likely be retained in a somewhat altered state that includes this political commitment.

If current trends in downsizing military forces in Europe under CFE continue, the fundamental role of ground and air forces in Europe will shift, thus directly affecting the established role of naval forces. Already we have seen NATO promulgate a new military concept of operations and military strategy with emphasis on forward presence and crisis response rather than forward defense and the AIRLAND battle. CFE and the new NATO military strategy no longer require forward defense by combat naval forces in the European theater. The shift to forward presence and crisis response as the principal missions undermines the more contentious aspects of NATO's old maritime concepts of operations -- including strategic antisubmarine warfare (ASW) against Soviet nuclear-powered ballistic missile submarines (SSBNs). The point is that CFE might not directly regulate naval forces, but it most certainly affects them.

The 1992 Open Skies Treaty allows the overflight of U.S. naval bases and facilities in Europe and North America by military aircraft of foreign nations, including Russia. The agreement allows overflight by short-notice unarmed surveillance aircraft equipped with panoramic, framing and video cameras, infra-red line-scanning devices, and synthetic aperture radars. Cameras will capable of taking pictures with resolutions down to 30 centimeters and infra-red capable of 50 centimeters resolution.[13] If nothing else, this agreement will require the U.S. Navy to consider alterations of its peacetime deployment patterns, exercises, and other activities that it does not desire to display.

Unilateral steps taken by the U.S. to downsize its armed forces under the Base Force are well-known and have achieved more reductions in military hardware than the most dedicated efforts of arms control proponents.[14] The Bush administration Base Force would have taken the U.S. Navy down from a nominal 600 ships to a fleet of around 450. With the election of Bill Clinton and a Democratically-controlled Congress, it is likely that additional unilateral cuts will continue to somewhere around 300 ships in the fleet. This reduction may be termed Base Force II, or some other number indicating how many internal revisions to the Base Force were planned but never made public heretofore.

The net result of these unilateral reductions is that the U.S. will be unable to respond to a crisis at the strategic- and operational-levels of warfare with only national forces. For such responses, the participation of ad-hoc coalitions, allies, and host nation support are assumed. Furthermore, as the U.S. armed forces continue to be scaled back, any U.S. response will have to be a joint response, not just one limited to the sea services. These results may not be due to any international negotiations nor treaties, but they are certainly compatible with the goals of naval arms control proponents.

Due to these unilateral actions, the basic goals of naval arms control are now being achieved without any involvement of the arms control community. Indeed, the subject of naval arms control has received little or no recent attention even from traditional supporters within the U.S. primarily due to the realization that their efforts might complicate and delay the cuts that were going to happen anyway.

Navy Offensive Nuclear Forces

There are a whole series of nuclear arms control agreements that the Navy acknowledges exist, but generally does not see as setting a precedent for the control of conventional naval arms. Denial cannot change the facts of the matter, however. The complex relationship of nuclear forces and capabilities to conventional naval forces is a topic on which I have written elsewhere and will not repeat herein.[15] Suffice it to say that the control over naval nuclear armaments has a direct effect on the requirement and the budget authority available for conventional forces. For example, if the Russians were to disavow their sea-based leg of their strategic nuclear triad, it would undermine the programming requirements for the *SEAWOLF* and *CENTURION* nuclear-powered attack submarines (SSNs).

Existing nuclear agreements that regulate naval forces includes the 1972 Protocol and the Interim Agreement associated with the Strategic Arms Limitations Talks (SALT I). The SALT I Interim Agreement regulates the number of U.S. modern ballistic missile submarines at 44 and submarine-launched ballistic missile launchers (SLBMs) on SSBNs at 656. The general approach during SALT I was to codify the planned building program for the super-

powers rather than to reduce existing or programmed arms; hence SALT I really did not reduce costs associated with the Navy but it can be argued that it did reduce the risk of war.

Naval strategic nuclear forces were also regulated by the 1979 SALT II Treaty and associated agreed statements. SALT II's status remains somewhat clouded since it never fully entered into force yet appears to be at least partially adhered to by both the U.S. and Russia.[16] SALT II regulates SLBM launcher numbers and the number of reentry vehicles (RVs) permitted aboard *POSEIDON* and *TRIDENT* SLBMs.

The SALT II Treaty also prohibited cruise missiles with ranges in excess of 600 kilometers; cruise missiles of over 600 kilometers range with multiple independently targetable warheads; ballistic missiles or launchers with ranges in excess of 600 kilometers for installation on waterborne vehicles other than submarines; ballistic or cruise missile launchers for emplacement on the ocean floor; and SLBMs with a throw-weight greater than then-current Soviet SS-19 intercontinental ballistic missile (ICBM).

SALT II, like SALT I, was not intended to significantly reduce U.S. nuclear forces, but merely codified the existing force structure.[17] It would have only reduced costs on the margin. SALT II did regulate areas where one might have argued for growth in nuclear force structure and it did curb certain technical advances. Although the SALT II treaty was never ratified, it was fully adhered to for some years, contributing to the perceived need to retire some SSBNs and forestalling the development of advanced cruise missiles for naval aircraft.

The U.S. government has recently negotiated an additional nuclear arms control agreement which has a significant impact on existing and planned naval forces; the 1991 Strategic Arms Reduction Talks (START) agreement with the USSR.[18] Again, naval nuclear forces would be affected by this new agreement. START has yet to fully be ratified, primarily due to the political demise of the USSR. Its provisions are expected to be adhered to by Russia and three other former Soviet nuclear-capable republics.

In his January 28, 1992 State of the Union Address, President Bush announced unilateral moves that went beyond what was negotiated in START. These included the end of the production of a new warhead for U.S. SLBMs -- included as a part of the Base Force cutbacks. In a January 29, 1992 follow-on press briefing and news release, Defense Secretary Dick Cheney added that it was the *TRIDENT* II SLBM's W-88 warhead that would be terminated.

In this 1992 State of the Union address, Bush also offered additional reductions in nuclear forces if Russia agreed to eliminate all ICBMs with multiple independently targetable reentry vehicles (MIRVs). Specifically, Bush stated that the U.S. would reduce its SLBM warheads by 1/3. After reviewing the START

Treaty and the Base Force, it appears that the U.S. will only outfit the newest ten *OHIO*-class SSBNs with the *TRIDENT* II (D-5) missile and retain the older *TRIDENT* I (C-4) SLBM aboard the first eight.

The State of the Union offer was followed by U.S./Soviet political agreements in July 1992 on deeper cuts in nuclear forces. These deeper cuts, if ratified, will require each side to reconsider whether it retains all three legs of its triad or shifts to a dyad or monad. If Russia decides to shift the bulk of their strategic nuclear warheads to sea, as we are, their remaining SSBNs will become magnets for attack by conventional forces. Such an action would support arguments made by the U.S. Navy that it needs *SEAWOLF* or *CENTURION* SSNs.

As the numbers of warheads that each nuclear superpower can retain continues to fall, targeteers will eventually reach a point where they cannot "service" all of the targets in the other's homeland.[19] Such a situation will force consideration of a fundamental shift in targeting strategy to countervalue making promptness less important. If nuclear retaliation is not time urgent, and if the U.S. Navy continues to absorb the bulk of the burden of the nuclear deterrence mission, we will not need to routinely place our SSBNs within, or at least near, missile-firing range of Russia. Indeed, if Russia is officially no longer our enemy, there is no reason that our SSBNs need to be near missile firing range of that nation on a daily basis. This would open up entirely different deployment options for these forces -- cruising the vast ocean areas with perhaps routine port calls.

Existing nuclear arms controls also includes the testing of nuclear warheads under the water -- regulated by the Limited Test Ban Treaty (LTBT) of 1963. Fleet nuclear warhead tests are also restricted in yield by the still-unratified Threshold Test Ban Treaty (TTBT) and Peaceful Nuclear Explosions Treaty (PNET) of 1974. Navy nuclear technology is controlled by the 1968 Non-Proliferation Treaty (NPT) and a series of additional agreements such as the 1977 agreement with the International Atomic Energy Agency (IAEA), and a 1980 Convention on the Physical Protection of Nuclear Material. Most of these measures sought to reduce the risks and/or consequences of nuclear war.

Nuclear War at Sea

Nuclear war at sea has been made less likely by a number of CBMs, such as: the "Hot Line" Agreement of 1963; the "Accidents Measures" Agreement of 1971; the Nuclear Risk Reduction Centers Agreement of 1987; and the Ballistic Missile Launch Notification Agreement of 1988. The latter two require advance notification of SLBM tests. All attempt to reduce the likelihood of war.

The Navy is bound by the existence of a "zone of peace" -- the entire ocean area south of 60° south latitude -- defined by the Antarctic Treaty of 1959. The Navy was also bound to adhere

to the establishment of a nuclear weapons free zone (NWFZ) when the U.S. government ratified the Latin America Nuclear-Free Zone Treaty (Tlatelolco) of 1967. This treaty prohibits the testing, deployment, and threat to use nuclear weapons against contracting parties in vast areas of the Atlantic Ocean.

Maritime nuclear weapons have not been developed for use on the world's seabeds outside of one's territorial seas in accordance with the Seabeds Arms Control Treaty of 1971 and in space in accordance with the 1967 Outer Space Treaty -- other zones of peace/nuclear free zones. Both of these agreements have inhibited development of forces that the U.S. government has desired to pursue.[20] A more extensive nuclear free zone was established in the South Pacific by the 1985 Treaty of Rarotonga (SPNFZ). Although the U.S. is not a party to this agreement, a customary international law servitude may be created if the U.S. does not challenge this convention by the continued transit of these waters by ships and aircraft that it will not deny have nuclear weapons.

In his September 27, 1991 television address to the nation, President George Bush announced that he had unilaterally ordered significant reductions in the numbers of naval tactical nuclear weapons and their immediate removal from fleet units -- goals long sought after by proponents of naval arms control/ This was an actual act of naval arms control not announced as an integral part of the Base Force as were unilateral reductions in strategic nuclear forces. Although these measures achieved the goals of naval arms control, Navy spokesmen have denied that they constitute an actual act of naval arms control. Such is the strength of the anti-naval arms control lobby and the fear of the "slippery-slope" within the Navy.

Navy Defensive Nuclear Forces

Despite the rhetoric of the Bush administration to include naval forces in a program for Global Protection Against Limited Strike (GPALS), the Navy is regulated by the Antiballistic Missile (ABM) Treaty of 1972 prohibiting sea-based ABM systems. The major arms control goal of the ABM Treaty was to shift the philosophy of nuclear deterrence to one that would accommodate mutual assured destruction (MAD) and thereby reduce costs. A minimal deployment of a modest ABM or GPALS system is not inconsistent with MAD but would serve to protect the U.S. from accidental, unauthorized, or small attacks.

The Navy has traditionally disowned roles and missions that would tie the fleet to close-aboard continental defenses, preferring to argue that the first line of defense is right off the shores of the enemy. Under today's constrained budgets, the Navy may revisit this policy and attempt to get a piece of any action -- even the defense of North America. Advanced concepts for forward deployed and mobile GPALS to protect American allies or expeditionary forces might include components aboard surface ships, aircraft carriers, or submarines.

Miscellaneous Regulations

The Navy does not test, exercise, or possess biological and chemical weapons in compliance with the Geneva Protocol of 1925 and the Biological Weapons Convention (BWC) of 1972. The Navy will obviously comply with the new 1992 Chemical Weapons Convention (CWC).[21] It furthermore is bound to the restrictions on military or other hostile use of environmental modification techniques contained in the Environmental Modification Convention (ENMOD) of 1977.[22]

In the area of nuclear forces, the Standing Consultative Commission (SCC) created to monitor SALT has in itself resulted in the creation of a number of understandings and/or regulations on nuclear forces that the U.S. Navy is obligated to follow.[23] Similar consultative commissions, such as the Special Verification Commission (SVC) and the Joint Compliance and Implementation Commission (JCIC), have been created for other arms control treaties, such as the Intermediate Range Nuclear Forces (INF) Treaty and CFE, and should be expected to create additional obligations for the Navy as well.

In summation, Table 1 outlines how the Navy is already regulated by arms control:

- -

TABLE 1

EXISTING NAVAL ARMS CONTROL AGREEMENTS

I. Reduction of the Risks of War
- Rush-Bagot Treaty, 1817, restrictions in Great Lakes
- Montreaux Convention, 1936, Turkish Straits transit
- Geneva Convention on the Law of the Sea, 1958, maritime laws
- Antarctic Treaty, 1959, zone of peace
- Hot Line, 1963, CBM
- Tlatelolco, 1967, NWFZ
- NPT, 1968, nuclear and technology proliferation
- Accidents Measures, 1971, CBM
- Seabed Agreement, 1971, NWFZ
- SALT I Interim Agreement, 1972, SSBN/SLBMs
- SALT I ABM Treaty, 1972, sea-based ABM
- INCSEA, 1972, 1975, CBMs
- Helsinki Final Act, 1975, amphibious exercises
- IAEA agreement, 1977, nuclear and technology proliferation
- SALT II, 1979, SSBN/SLBMs, cruise missiles
- Convention on the Physical Protection of Nuclear Material, 1980, nuclear and technology proliferation
- UN Law of the Sea Treaty, 1982, maritime laws
- Stockholm Accords, 1986, amphibious exercises
- Nuclear Risk Reduction Centers, 1987, CBM
- Ballistic Missile Launch Notification, 1988, CBM
- US/USSR/Japan Regional Air Safety Agreement, 1988, CBMs

DMA, 1989, CBMs
US/USSR agreement on innocent passage, 1989, maritime laws
US/USSR Bering Straits Region Commission, 1989, CBMs
Vienna CSBMs, 1990, amphibious exercises
Base Force, 1990, reduction of fleet by ¼ of 1990 levels
CFE, 1990, land-based naval aviation, overall security
Removal of tactical nucs, 1991, unilateral reduction
START, 1991, SSBN/SLBMs
Deep cuts, 1992, SSBN/SLBMs
Open Skies, 1992, intelligence-gathering overflights
Base Force II, 1993, by ½ of 1990 levels
General restrictions on activities while transiting canals
SCC and similar non-Treaty obligations

II. Reduction in the Consequences of War
Hague Conventions, 1907, laws of war at sea
Geneva Protocol, 1925, chemical warfare
Geneva Convention, 1949, immunity of hospital ships
Antarctic Treaty, 1959, zone of peace
LTBT, 1963, nuclear testing
Tlatelolco, 1967, NWFZ
Seabed Agreement, 1971, NWFZ
SALT I Interim Agreement, 1972, SSBN/SLBMs
BWC, 1972, biological weapons
TTBT/PNET, 1974, nuclear testing
ENMOD, 1977, environmental warfare
Base Force, 1990, reduction of fleet by ¼ of 1990 levels
START, 1991, SSBN/SLBMs
Removal of tactical nucs, 1991, unilateral reduction
Deep cuts, 1992, SSBN/SLBMs
CWC, 1992, chemical weapons
Base Force II, 1993, by ½ of 1990 levels

III. Reductions in the Cost of Naval Forces
SALT I ABM Treaty, 1972, sea-based ABM
Base Force, 1990, reduction of fleet by ¼ of 1990 levels
START, 1991, SSBN/SLBMs
Removal of tactical nucs, 1991, unilateral reduction
Deep cuts, 1992, SSBN/SLBMs
Base Force II, 1993, by ½ of 1990 levels

Source: the author

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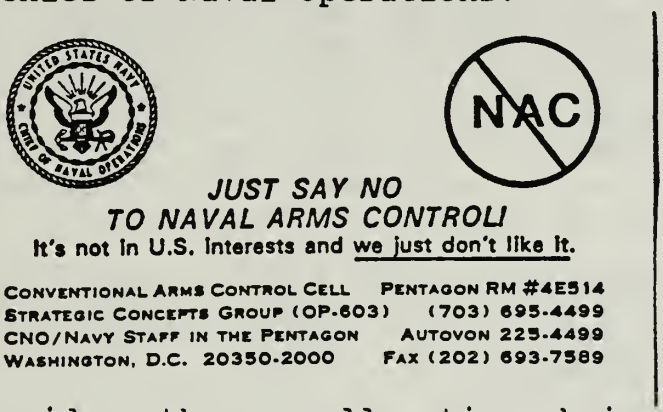
Implications

It is entirely incorrect to say that the Navy is not a "player" in arms control already. By admitting that it is already a player, the Navy should recognize that they have been able to successfully participate in the arms control arena for years without paying the heavy price of dangerous fleet reductions that were the legacy of the 1920s and 30s. A "slippery slope" may exist, but the Navy has demonstrated that it is an alpine climber

par excellence and has managed to traverse the slope without falling in to the crevasses. Indeed, the only serious erosions to the conventional forces of the fleet in the past forty-seven years have been as the result of normal internal political actions in response changes in the external international environment.

It is also entirely inappropriate for the now reorganized naval staff to reissue the following informal business card, once distributed by the old Strategic Concepts Group, OP-603, in the Office of the Chief of Naval Operations:



If one considers the overall actions being taken by the U.S. government to downsize its nuclear forces, the fleet and naval air force, and to reduce forward bases and presence, they have exceeded the wildest expectations of the most ardent naval arms control proponents of the past decade. Indeed, this author has already heard one very senior Bush administration political appointee ponder, in a closed forum, whether we should consider embracing arms control as a tool to **delay** or derail cuts resulting from the defense "freefall." Similar arguments have been made on the pages of the U.S. Naval Institute *Proceedings*.[24]

The new national security strategy outlined by the Bush administration and the new regionally-focused national military strategy promulgated by the current Joint Chiefs of Staff (JCS) are license to revisit conventional wisdom on naval arms control. Simply put, with a totally new international security environment, it is the time to look at this subject again, from the perspective of how it might enhance the national security of the U.S. and help the U.S. Navy as an enabling force under our new national military strategy. Naval arms control was a bad idea under the old international security environment,[25] but objections to arms control based upon "old-thinking"[26] must now go the way of the former "evil empire."

Appropriate Confidence Building Measures

There are some modest CBMs that simply are good ideas and should be actively pursued **now** due to the new international security environment. These are all peripheral measures that do not involve major polices or central weapons systems. Acknowledging them as "arms control" means going down the "slippery slope," but after all, we have already been on that slope for

years and have managed to prevent it from emaciating the fleet to the extent that recent budget reductions did! Each of the following measures should be considered from the perspective of contributing to the security of the U.S. in a radically new international security context. None is particularly contentious and would probably only be opposed by the Navy due to the old "slippery slope" argument. We are doing most of these anyway and simply need to do more.

First and most important, we need to formalize and regularize our already **open exchanges of** maritime/naval **data** with other nations, principly the republics of the former USSR. Specifically, we need to know which republic owns what forces, what are there hull numbers, home ports, and status (active/reserve). Granted the information provided openly might not be entirely accurate, but it would supplement what the government finds out using its own sources and what we can learn from the media.

Proposed transfers between fleets might also be an area for an exchange of data that would avoid the problems associated with the transfer of the Russian aircraft carrier *KUZNETSOV* between their Black and Northern Fleets. What would be wrong with asking for a declaration of shifts between major fleets? On our side, this information is probably routinely reported in *Navy Times*. Do we yet understand which naval aviation units will be transferred between the Black Sea Fleet and the Ukrainian Navy? Is there anything wrong with simply asking the Russians?

Open exchange of non-sensitive data, such as the names, classes, and home ports of major ships, should be non-threatening to the U.S. since this data is generally published in open-source information. If we can exchange even more sensitive data for strategic and theater nuclear forces and similar data for ground and air forces, why not build confidence by helping each other understand the other's naval force structure?

With the change of our focus to regional presence and crisis management, we need to build a better data base on arms transfers as well. We need information on those who would sell arms to those who might buy them. An open exchange of pending arms sales and transfers would help us predict the future threat environment at sea. The government might find that this information is already available from private sources and can be openly purchased at modest costs. The intelligence community could add its own information rather than attempt to duplicate what is already commercially available.

Secondly, we need more **transparency in military policy, doctrine, strategy, operational art, peacetime deployment patterns and force acquisition plans.** Most of this information is available on the U.S. for those nations who care to invest in open-source collection, but quite frankly, we need help in understanding where the Russian government is going with its military. Simply put, we are seeing mixed signals, with signs towards defensive defense and a large high-seas fleet.[27] The Russian

government could go a long way to build confidence in their apparent shift towards a defensive military policy, doctrine, and strategy by unilaterally disclosing why they need a fleet, how it would be employed in peacetime and war, and what size and type forces will it have?

The U.S. and Russia have been expanding their navy to navy contacts at the operational level. This needs to extend to exchanges of faculty at our war colleges, with our government and private think tanks, with serious scholars and not simply "for show" visits of warships and senior officers.[28] It will not be easy to break the habits of looking first to the other nation as the principal threat and mirror-imaging concepts of warfare. We must expand international military educational contacts and engage in joint research in the areas of military policy, doctrine, strategy, and operational art.

One of the major leaks of the fears of top-level Communist Party (CPSU) and Soviet intelligence leaders was that provided by retired KGB [Committee on State Security] General Oleg Gordievsky.[29] The KGB's Operation RYAN, a collection effort in the early and mid-1980s to warn of a "bolt-from-the-blue" attack by the West on the USSR, was reported by Gordievsky and apparently was real. This is an example of how bad the CPSU and KGB understood us and how dangerous it was for the U.S. to publish declaratory war-fighting nuclear and naval strategies and to have conducted certain types of aggressive deployments with its naval and air forces. What we intuitively understood were actions taken to reinforce deterrence apparently were totally misunderstood by the other side as an actual threat to peace.

Similarly, although we thought we understood Soviet concepts for war in Europe, recent leaks of war plans found in the former German Democratic Republic (GDR) portend a different conclusion. Authentic Warsaw Pact war plans were recently published by the International Institute for Strategic Studies (IISS) in their journal *Survival*.[30] Apparently nuclear operations were indeed to begin early in any war with the West but they would have been limited to the Western Theater of Military Strategic Operations (WTVD). This is not what we thought at the time and the error is not trivial.

Although the Navy's 1980's Maritime Strategy focuses primarily on global conventional war, it infers that if war were to go nuclear ashore, then war would go nuclear at sea as well. If the war ashore was to go nuclear quickly, then this would have undermined the basic assumptions in the Maritime Strategy of a prolonged conventional stage in which the correlation of nuclear forces might be altered. It was this assumption that justified actions to be taken during the conventional stage of the war and supported the programming decisions to build expensive ASW forces that would have a role in altering the correlation of forces.

We both need to understand each other much better than we apparently did in the past. Additional exchanges of military

scholars might help each of us understand the other better so that we can avoid repeating past mistakes. The current open "window" in Russia may not stay open and we should take maximum advantage of the opportunity to learn and teach.

If both the U.S. and Russia have shifted their military focus to crises, including crises involving each other, then the **third** area of immediate naval arms control should be to **expand** our existing agreements to defuse crises at sea. The existing bilateral **INCSEA** and recent high level meetings between the military staffs appear as constructive moves. INCSEA could be signed on a bilateral basis by all sea powers -- bilateral arrangements being easier to tailor and negotiate.[31] Once bilateral arrangements have been reached, it is likely that we could eventually negotiate regional and perhaps even a multilateral agreement open to all maritime nations. INCSEA should be expanded to include non-interference with submarine or aircraft operations and to preclude all types of training attacks conducted by military ships and aircraft against civilian ships and aircraft.

Fourth we can continue to **expand maritime cooperation efforts** between navies. At a minimum, routine administrative procedures can be set up for position reporting to assist search and rescue (SAR), and low-level cooperative arrangements could be made for SAR, to combat piracy, and to stem the flow of drugs at sea. The record of accidents at sea during the past years strongly suggests cooperation is needed.[32] Cooperation in oceanography, hydrography, and meteorology could make sailing under, on, or flying over the oceans a more safe endeavor. Moreover, the signing of cooperative research agreements can themselves be confidence building blocks.

The 1937 Nyon Treaty, which can be argued as having set a precedent in customary international law, contains a code of combat behavior expected of submarines in situations less than a fully-declared war -- perhaps very instructive today.[33] The U.S. plans to redirect the attention of its submarine force from concentration on antisubmarine warfare to presence and crisis response. Problems associated with the use of submarines in the Spanish Civil War and World War II might be reviewed to see if there are any lessons, and customary international law obligations, that might pertain in today's planned use of such forces. Hence, **fifth**, The unresolved issues of the **laws of submarine warfare** should probably be openly discussed at a special international forum with the goal of an international convention to codify these laws of war and clear up existing misperceptions.[34]

Revising Current Policies

The above initial five efforts would act as building-block CBMs which might enhance the legitimate performance of naval missions at sea and help defuse crises. A second series of nine measures involve directly addressing previous policies that made perfect sense under the old international security environment, but may not under current conditions. In each case, we should

expect a knee-jerk reaction from the Navy based upon "old thinking" and the "slippery slope" argument. What the author suggests is that old objections be rejustified under the new international security environment, if they can be. Each of the following nine measures is contentious, but all can be justified as good ideas and less threatening today, to the Navy, than they were previously.

Since the U.S. Navy accepted the loss of its tactical nuclear weaponry at sea, we should **first, abolish** our policy of neither confirming nor denying (**NCND**) that our major warships carry tactical nuclear weapons. The President told the world that these weapons were being removed. Most nations believe that this has already been done. The Army and Air Force routinely denied to other countries that their bases or forces are nuclear capable, albeit on a general and not specific basis. Arguing that we need the policy just in case we return these weapons later is like the Army retaining policies for the care and feeding of animals in its horse cavalry. If we ever put the tactical nuclear weapons back on our ships and aircraft, we can reinstitute the policy. NCND has caused enough problems with Western nations.[35]

A related issue is, **second, no first tactical nuclear use at sea**. Our tactical maritime weapons have been removed anyway. If we ever put the weapons back on our ships, that move would automatically require revisiting this policy. Operation DESERT STORM demonstrated that we can deal with an emerging nuclear threat without resorting to tactical nuclear threat or use. If the U.S. promises to not use tactical nuclear weapons first at sea, it could tie the deterrence of maritime tactical nuclear war, as it did with the USSR, to a threat to expand the war ashore. In any case, it was never in the interest of the U.S. Navy, or any Western navy, to fight a tactical nuclear war at sea.

Third, although additional **NWFZs** and/or "zones of peace" may not necessarily have been in the West's best interests previously,[36] can we say that in the present international security environment? An exemption can be made for weapons carried by SSBNs. Since we no longer have tactical nuclear weapons at sea, why not regulate such weapons in specific areas of the world's oceans where we would not want to see them appear. It would also be useful to see which governments would be unwilling to sign such an agreement.[37]

NWFZs might first be established where the Navy has already accepted "zones of peace" and similar restrictions. For example, the first NWFZ might be in the Antarctic, where such restrictions have essentially been accepted, but would be formalized by a new treaty. Other candidate areas would be those areas of the world's oceans where the Navy knows that it would never want to see nuclear weapons deployed anyway; e.g. Hudson's Bay. Other nations of the world might want to organize their own NWFZs, much the same as the South Pacific Forum organized SPNFZ, without the

participation of the U.S. As the U.S. shifts is military strategy for nuclear deterrence, it might want to even consider a NWFZ in the Arctic. Such a zone might regulate Russian deployments of SSBNs in this area and negate the requirement for expensive under-the-ice capabilities for SSNs.

Agreements on the notification of ballistic missile tests, and on the prevention of dangerous military activities, were recently signed by the superpowers. Perhaps, **fourth**, we can agree as well on **advance notification of operational-level maritime exercises** and aviation exercises conducted over the oceans. This is essentially what we adopted in the Stockholm Document and subsequent Vienna CSBMs. For safety reasons, Western navies already routinely issues notices to mariners and notices to airmen when they plan to conduct major exercises. Advance notifications are also given prior to the transit of the Turkish and Danish Straits.

Notification of planned exercises might be limited to those which the other side finds most threatening; such as flushing of all SSBNs from port, conducting a large-scale amphibious exercise near another coastal state, or conducting a major external air forces power projection exercise. Tactical-level exercises would **not** be regulated. Although advance notification clearly undermines the principle of freedom of the seas, it is better to promise to notify prior to an exercise rather than to have exercises more severely regulated.

Since we already exchange inspectors in accordance with CFE and nuclear agreements, why not require observers during operational-level fleet exercises as well? Clearly there are a number of practical difficulties to be overcome, but perhaps a specialized naval tactical data systems (NTDS) module could be created that would filer out sensitive data for observers but allow them to view the exercise from within.

Fifth, a series of **environmental protection measures** could be negotiated. All of these are not necessarily routine, and each would require careful involvement of additional agencies and bureaus other that navies. For example, the disposal of naval nuclear reactors in Russia by the West might be considered. On the one hand, it is in the best interests of all governments and navies of the world to ensure that the Russian environmental mess is cleaned up quickly and safely. On the other hand, if we feel that the Russians have the technical expertise to perform this function, we might not want to incur the legal liability for cleaning up their mess. We would also need to consider if Western assumption of this responsibility would result in more rubles being available for defense.

There are a series of cooperative measures that might be negotiated to deal with other maritime environmental disasters such as oil spills, pollution control, and responses to environmental warfare. Again, a mechanism needs to be created that ensures the responsible party retains liability, but other na-

tions of the world should not remain aloof from a disaster that would eventually affect their use of the sea.

Rules regulating pollution exist for coastal state's internal waters, their territorial seas, and exclusive economic zones (EEZs). How long will it be before international standards are set for areas of the high seas that are extremely sensitive to pollution. The Arctic and Antarctic areas are a case in point. Once these talks begin, how long will it be before naval forces are now expected to comply with pollution regulations and how much longer before it is suggested that they not deploy to such areas to prevent environmental damage?

Bilateral, regional, and finally multilateral planning for ocean use might be attempted. As more and more users of the oceans compete for the same space, including navies, planning might be a way to identify controversies before they erupt into crises that would require a military response. Environmentalists should be given a seat at this table so that planned activities do not affect vital oceans ecosystems.

Sixth, navies might want to propose a series of **controls over maritime technologies** that they would like to see regulated. The proliferation of advanced conventional, and nuclear, weapons is an area of the highest concern to the United States. Controls over maritime technologies is an important first step in the control of proliferation of naval weapons. In the past, the Western governments had an umbrella organization, the Coordinating Committee for Multilateral Export Controls (COCOM), that attempted to prevent the flow of technology to the Soviet Union. Today's dual-use technology transfer issues are far more complex and require more extensive intelligence gathering and policing. The Navy should not look to the U.S. government to take the lead on this issue and should be prepared to advance whatever regulations it would care to see in force.

Seventh, we should require the **armed escort of nuclear materials being shipped at sea.** The Japanese took this action in late 1992, but there ought to be some sort of an international agreement on the route that such shipments will take and the escort that is required. The high seas are not at all safe and the risk of loss of such materials too great to allow shipments to ply the oceans without protection.

Under the old international security environment, navies had a well-researched set of rules of engagement (ROEs) that were primarily designed for use against the Soviet Navy. Under the new political guidance with primary emphasis on lesser (LRC) and major (MRC) regional contingencies instead of a European-centered global war, we need an encyclopedia of rules of engagement for multiple possibilities. Obviously one set can govern the resurgent/emergent global threat (REGT) in much the same manner as the Soviet Navy. Those type of rules, however, are inappropriate for LRCs and MRCs.

What is needed are, **eighth**, **new** national and NATO maritime **ROEs** applicable to forward presence out from under the threat of hair trigger war and rapid but limited crisis response. These rules need to be created under the strictest admonition that as Clausewitz wrote, warfare is subordinate to policy. It is entirely possible that new ROEs will result in a higher degree of risk for our forward deployed forces. If true, this may change our current position regarding the type of forces that we send on forward presence missions.

Simply put, we need new ROEs that reflect the new international security environment.[38] These rules will further restrict the right of the commanding officer to act precipitously in self-defense. The result of these new rules may be to increase the numbers of incidents in which U.S. naval forces are damaged or sunk. Since that risk would be greater, the U.S. might want to forward deploy more expendable forces and keep its combat capability as an operational-level reserve that can respond to a trip wire action.

New maritime ROEs should include CBMs to be employed during any future crises and perhaps even during a future armed conflict. Although such measures have already been discussed for nuclear war termination, this area needs to also be investigated for conventional crises and conflicts. For example, the firing of naval strategic nuclear weapons are an excellent method for a national leadership to demonstrate positive command and control over forces during the concluding stages of a nuclear war without threatening land areas.[39] There are probably other actions that can be taken at sea which would build confidence during the war itself, not just steps that we take during peacetime.[40] Such steps might include unilateral efforts made to slow the pace of the crisis or to at least limit the area of military actions.

New ROEs should be created recognizing that there is a "ratchet-like" political effect for the same military actions taken in different areas of the world's oceans. The inherent right of a commanding officer to determine hostile intent, meaning an imminent attack, varies with his location. When he is within his own nation's internal waters, political guidance may accept little or no risk. As that commanding officer sails farther from his own shores, the amount of risk that his nation should allow him to accept will generally increase. Conversely and because of differences in ocean space, actions taken at sea can be very effectively used to "signal." An action against a warship on the high seas will not be taken as seriously as the same action against the same ship while it is in its own internal waters.

An **ninth** area into which we should look is permissive action links (**PALs**). PALs are installed in nuclear weapons and require receipt of a code or an external signal in order to achieve a nuclear detonation.[41] PALs are found on U.S. strategic bombers and in the system to launch our ICBMs. They are also found on Russian SSBNs. Although called unnecessary for our

SLBMs (and an emotional issue for the crews involved), how have we managed sea-based cruise missiles? Would the West not feel more secure if we knew how Russian PALs worked? What about PALs for nations that will field ICBMs or SLBMs in the future? To ensure security, it may be worth the price of inserting PALs on American SLBMs. PALs are totally consistent with our obligations under the Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics signed in 1971. If the U.S. and Russia shift to lower numbers of nuclear weapons and non-prompt countervalue punishment deterrence strategies, the risk of SLBM PAL failure might be mitigated with the ability to return to a port or tender and overcome a technical malfunction.

Major Topics Recommended

In addition to modest CBMs and the more substantial recommendations above, there are a series of even more substantive actions which should also be taken now. Paralleling agreements on how to defuse crises at sea should be, **first**, the **resolution of political issues in the maritime sector.** Examples include: (1) a law of the sea convention that every nation could sign and ratify without fearing that it is really a vehicle to transfer wealth from rich to poor nations; (2) boundary disputes at sea, especially those that involve areas of significant resources such as the Spratley Islands; and (3) significant cooperative measures to really deal with piracy and drugs. Despite years of historical precedents, treaties, and some notable international court cases, even the right of innocent passage by warships through the territorial seas of another nation has yet to be settled to everyone's satisfaction.[42] Clearly the early 1992 incident involving the U.S. submarine *USS BATON ROUGE* indicates that despite all of our existing agreements with the Russians, we too need work in this area.

The U.S. is withdrawing from many of its overseas bases and deployment areas. The world fears rearmament by Japan and other regional powers. The pressures on Russia to sell armaments to anyone with hard currency causes increased fears of lower-level crises, which might get out of hand. As advanced weapons are increasingly in the hands of less stable elements, the levels of violence of future crises are less predictable. Before we use our political differences to justify the retention of a large fleet,[43] we should consider the option of, instead, placing renewed emphasis on reducing the sources of conflict.

Second, the proposed **deep cuts in nuclear forces and CFE follow-ons** should be finalized and ratified. After all, we cannot properly size the fleet until we know our nuclear and NATO presence, crisis response, and reconstitution requirements. For example, if we no longer have a requirement for strategic anti-submarine warfare, we can drastically modify the requirements for the follow-on, if any, to the improved *LOS ANGELES*-class submarine. If CFE follow-ons and the concomitant changes in NATO strategy envisage response times to a major regional contingency

in Europe to be that of many months, it may fundamentally alter the plans that we have for active-duty convoy escorts.

When most nations decide on how large their fleets will be, they first have the political and economic requirements and limitations in mind. Generally, they then know what role they will assign to nuclear forces, if any. Once that is done, the role of ground and air forces need to be established, since after all, victory in war is exploited by the administration of territory which requires ground forces. The role assigned to fleets should generally follow these more important considerations. This is not to say that fleets are unimportant, but rather to recognize that their place must be understood before arguments are made regarding their size. Ratification of CFE and START follow-ons will have a major influence on the size and composition of the U.S. Navy.

Third, the U.S. should seriously consider **limits on specific types of naval forces** that it does not want to see appear in other navies of the world. The Chinese have been discussing the purchase of an aircraft carrier from the Ukraine. Some Japanese have openly discussed building a carrier of their own if that were to happen. Why does Thailand need a helicopter carrier? Does the West desire to see any other nations with SSBNs? Proliferation of naval weaponry is an area that is increasingly more important to the U.S. and other governments and one that begs for an international cooperative solution.

The U.S. government should decide what price it is willing to pay to ensure that navies without aircraft carriers or SSBNs remain without them. If it means limits on our own building programs, well we are going to cut the fleet anyway. Perhaps the time has come to use arms control as a mechanism for the codification of the unilateral reductions that each superpower is going to make anyway.[44] We might then use a bilateral agreement as the basis for a mechanism to control the naval building programs of other nations.

When attempting to cut specific types of forces, we should circumvent stale recommendations made by those whose previous agendas are no longer appropriate under the new international security environment. For example, cutting SSNs because "they will scarcely matter at all in the Persian Gulf, or in similar crises in the future,"[45] indicates that the supporter of such cuts is out of touch with current thinking for the use of submarines for naval diplomacy and crisis response.[46] We must avoid regulating those things that have been proposed before simply because they have been proposed before, or worse, things that are easy to count.

Fourth, initial discussions for limits on actual forces might be both **limited** in terms of specific types of units and also in individual **geographical areas**. We might first explore limits on certain types of exercises in areas of the high seas; for example operational-level amphibious exercises in the Baltic

or Black Seas. Coastal states on the littoral of these two seas might all decide that such a restriction was satisfactory. Similarly, nations might want to preclude exercises in areas of the high seas that they call historical bays and claim as internal waters. These would include: Canada's Hudson Bay and Norway's Varanger Fjord.

If limitations on exercises can be tolerated in a particular region, then we might consider the permanent restriction of these type forces from those regions. A strong case could be made to tie such restrictions to environmentally sensitive areas of the seas. The need to ensure that national maritime commerce can be protected precludes the **total** exclusion of all foreign naval forces from the high seas. By tying geographic restraints to types and levels of naval forces that are not required for this function, however, commerce can be adequately protected with a commensurate reduction in threats to coastal nations.

Fifth, there have been a number of calls for **expanding our standing cooperative naval forces** and even a world or UN Navy.[47] Indeed, we now have a Standing Naval Force Mediterranean (STANAVFORMED) and the Russians have joined us in the Persian Gulf. A multitude of ad hoc and formal alliance structures are overseeing the current multinational naval blockade in the Adriatic. Before we jump on the bandwagon for a UN Navy, however, we need to seriously consider the political ramifications of such a step. In the meantime, expanded multinational presence with allies, expanded ad hoc bilateral or multilateral exercises and/or presence with former enemies is probably the way to go. Before we get into the business of a UN Navy, we need to first try things out on a limited basis. Presence before peacekeeping. Peacekeeping before peacemaking. Regional before global.

Sixth, we need to **renegotiate the ABM Treaty**. the Navy is currently prevented from deploying an at-sea GPALS, a goal promulgated by the Bush administration. At the time that the SALT I ABM Treaty was negotiated, the Navy favored such a ban. The U.S. government needs to make the case to the American public and the Congress that active defenses against ballistic missiles is a sought-after concept and a legitimate role for the armed forces. Making that case can be easy, but selling it will be more difficult given the political strength of arms control advocates. The best way to fight that battle is to first fight to deploy a ABM Treaty-compliant system. The Navy should support such efforts even though it will not increase the Navy's budget. Once that battle has been won, then the Navy can make a case that the fleet has a role in continental air and space defense and that at-sea assets can supplement those based elsewhere. Renegotiating the ABM Treaty will be required before the Navy can play in GPALS.

Verification and Compliance Issues

A typical example used by inattentive arms control enthusiasts to "demonstrate" the advantages of naval arms control is the 1922 Washington Naval Arms Conference.[48] The conference

placed major constraints only on building then-"strategic" weapons - capital ships and aircraft carriers. There were no regulations concerning submarines and only limited restrictions on construction of other warships. Even the U.S. has exploited the ambiguities of this naval arms control agreement. The U.S. Navy added 3,000 tons in defenses to the 33,000 ton limit for two battle cruisers being converted to aircraft carriers.[49]

The monetary savings by the U.S. achieved in the 1920s not building capital ships due to the Washington Naval Arms Conference was offset by expenses of the 1930s naval arms buildup. The Washington Conference cannot unquestionably be argued as having met any of the fundamental goals of arms control.[50]

Is the record any better if we add the naval arms control provisions of the Treaty of Versailles, the 1930 and 1936 London Treaty and the 1935 Anglo-German Naval Agreement? No -- none of the inter-war years naval arms control efforts met the basic objectives of arms control. On the other hand, it can be argued that any violations of these agreements did not have any significant role in the outcome of World War II.[51] That is not, necessarily, the point, however. A major lesson learned from these previous naval arms control agreements is that they limit necessary preparation for deterring wars that were eventually fought.

The legacy of previous naval arms control agreements tends to argue that they also deterred democracies from exposing totalitarian nations openly violating such agreements. For example, Great Britain actually had an Italian cruiser in its Gibraltar dry dock, weighed it, found it in excess of a 10,000 ton treaty limit, and hid their findings.[52] In another case, the Admiralty continued to record the incorrect and treaty-compliant tonnage for the German battleship *BISMARK* even **after** it was sunk and the Royal Navy's Intelligence Division had examined the ship's logs and 115 members of the surviving crew. It was not until twelve months after the sinking, when the Soviet Union handed over its own intelligence estimates that the British Admiralty accepted the conclusions of its own intelligence service.[53]

Traditional security policies are monitored by intelligence with little or not legal or political oversight. Arms control is monitored by technical-legal compliance politics. The verification of compliance with an agreement is a political decision; one in which the presumption of compliance is automatically made until there is "proof" of noncompliance. Obtaining a finding of "proof" of noncompliance is often hampered by the perceived need to then "do something" in response. Acknowledgement of a failure of arms control is often tantamount to a political failure of the highest order; thus the bias will often be to not find any noncompliance.[54]

Democracies always promise to expose violations (and do not always) and assume they will have strategic warning of any "significant" violations allowing rebuilding and rearming -- which they rarely do until too late. We are making similar

assumptions today about the warning times associated with an REGT!

Perhaps one of the most damning records of compliance politics is a minor anecdote within the larger story of the failure of the victorious powers to constrain Germany to her obligations under the Versailles Treaty. One of the most telling accounts of the levels to which compliance politics had sunk is the following remark made by a British naval inspector at the Inter-Allied Military Control Commission to his German counterpart:[55]

> It is now time for us to separate. Both you and I are glad that we are leaving. Your task was unpleasant and so was mine. One thing I should point out. You should not feel that we believed what you told us. Not one word you uttered was true, but you delivered your information in such a way that we were in a position to believe you. I want to thank you for this.

In 1933, the government of Germany underwent a major change. Up until then, marginal cheating on arms control agreements by Germany were taken seriously but did not cause significant alarm. After the 1933 change in government, marginal cheating proved downright dangerous to the stability of the world's democracies.[56] There are many totalitarian nations still on the horizons and caution should be our watchword with regard to verification and compliance.

One can argue that the record of all arms control is poor at best. We are frequently confused by proponents who insist that adherence to a treaty is more important than ensuring the security of the nation. Technical debates over verification demand a great deal of attention with little or no thought ever given to ensuring compliance with the agreement. Verification is **not** the problem. Generally we **can** verify non-compliance to a level that would be accepted by an intelligence specialist.[57]

The Krasnoyarsk radar is the classic case in point. We were bombarded, with opinion by arms control supporters that the Krasnoyarsk radar was not a technical violation or not strategically significant. Even if it were a violation, we were told that what mattered more is supporting the arms control process. Similarly, the U.S. government apparently had the proper evidence it needed to allege non-compliance by the Soviet Union with the 1972 BWC.[58] Compliance politics is the problem -- it is not the technical ability of the intelligence community to verify noncompliance!

The history of verification and compliance with previous arms control must be taken into account when considering new measures. Rather than assume that arms control can never work or that it doesn't matter if it doesn't work well as long as it builds a process, we should look at the verification and com-

pliance issue squarely during the process of deciding whether to even engage in a negotiation. We must answer then, "what after violation?"[59] We must also ask ourselves if cheating on the margin matters? Accompanying any proposal for control of naval arms should be a thorough discussion of responses to noncompliance. Withdrawal from a treaty is but an extreme reaction. Proportional responses need to also be thoroughly discussed.

Despite the well-documented history of previous arms control verification and compliance problems, consideration of these issues for naval arms control should be done from the perspective of the new maritime aspects to be regulated rather than only from previous experiences. The existing verification and compliance literature is already thoroughly researched and equally thoroughly politicized. Selective use of the biased existing literature would both support (1) advocates of naval arms control dismissing verification and compliance problems based upon our historical record; or (2) support a critic arguing that naval arms control should not be pursued because of inherent problems.

There will undoubtably be verification and compliance issues to consider with naval arms control. For example, what do we do the first time an Iranian *KILO* submarine "inadvertently" strays into a zone of peace? What do we do the fifth time it happens, since it is more than likely that we will do nothing the first four times? Does it matter if the submarine strays in 1 mile or 10 miles; or for 10 minutes or 10 hours? If our assumption is that for existing conventional arms control, not every violation matters,[60] should this also be our assumption for naval arms control?

Verification and compliance issues, however, should be approached from a fresh start -- one that first addresses the maritime arms or operations to be regulated and only then attempts to consider them.[61] Perhaps in this way we will not doom consideration of these issues to tired knee-jerk diatribes. Verification and compliance issues cannot be ignored but simply must be approached with an open mind, thus necessitating the utmost of rigor and caution.

The SALT I Interim Agreement contains a provision for the non-interference with national technical means (NTMs) of verification. NTMs will be an inadequate method of verification of naval arms control, but the concept of a commitment to not interfere with whatever forms of verification should be retained for naval arms control. Since many of our methods of verification will involve extremely sensitive naval operations, negotiations must be monitored to ensure that sensitive intelligence capabilities are not revealed.

One of the issues that will need to be addressed is the status of these agreements during crises and declared wars. Generally, proponents assume that CBMs would only be valid during peacetime.[62] A closer examination of the issues instructs us that some international agreements actually come into full effect

upon the outbreak of war, others some to an end, some are suspended, while others remain in force.[63] Each possibility will need to be carefully considered before concluding any agreements.

The validity of agreements may also vary with the types of crises and wars that exist. For example, if a nation is a party to a NWFZ, it could be argued that this nation is also automatically adopting a no first nuclear use in that zone. If that nation retained nuclear weapons outsize the NWFZ, the no first nuclear use might not apply outside the zone -- thus reinforcing the need for more comprehensive ROEs. Similarly, parties that have not adopted no first nuclear use but have agreed to a NWFZ, such as the U.S., should already have comprehensive ROEs for such contingencies.

The costs of verification should not be assumed as marginal; these too need to be assessed -- especially in an era of diminishing defense budgets -- although generally there will always be more savings associated with arms control than costs of verification and compliance.[64]

One of the best examples of a naval arms control agreement is the demilitarization of the Great Lakes by the Rush-Bagot Treaty. Seldom mentioned, however, is the general disregard for this treaty's specific provisions by the U.S. since our Civil War.[65] How many of us realize that the U.S. Navy had training aircraft carriers in the Great Lakes during World War II? The Rush-Bagot Treaty clearly illustrates that nations settle their political differences first, then sign arms control agreements in which technical or even significant violations are meaningless while the political climate remains comfortable.

Conclusions

Upon scrutiny, the "slippery slope" argument erodes with the evidence that the Navy has successfully managed to minimize the impact of arms control agreements while on that slope. A comparison of arms control agreements regulating air and naval forces might cause one to conclude that navies have created the illusion of non-regulation while their brothers in arms have been forced to deal with the issues on a daily basis. There are no intuitively obvious reasons that navies should be exempt from routine considerations of arms control because they are inherently "unique."[66] Liking it is optional -- the Navy, like all military forces, should be required to represent itself in all arms control fora and make the best case that they can for whatever their position is.[67] One must assume that the Navy has the talent to argue its case well since it has managed the "slippery slope" so well for so many years.

The Navy probably should be regulated in ways that it has not contemplated in the past. A summary of the recommended areas for regulation contained herein if found in Table 2:

TABLE 2

NEW NAVAL ARMS CONTROL RECOMMENDATIONS

I. Expanded Confidence Building Measures

- Exchanges of Data
- Transparency in Policy, Doctrine, Strategy, Force Structure
- INCSEA
- Cooperative Measures
- Agreement on Laws of Submarine Warfare

II. Revision to Current Policies

- Abolish NCND
- No First Tactical Nuclear Use at Sea
- NWFZs
- Advance Notification of Operational-level Exercises
- Environmental Protection Measures
- Controls Over Maritime Technologies
- Armed Escort of Nuclear Shipments
- ROEs
- PALs

III. Major Areas for Agreements

- Resolution of Political Issues at Sea
- Deep Cuts in Nuclear Forces and CFE Follow-ons
- Limits on Specific Naval Forces
- Geographic Limits
- Expand Standing Naval Forces
- Renegotiate ABM Treaty

Source: the author

The Navy needs to participate in any future arms control discussions involving fleet forces or operations as an active party to that process. The fleets of the world are being hobbled and undermined substantially by budgetary reductions. Navies must understand that they **must** be a major participant in that process, to minimize the unctuous intemperate actions of the normal political process. Navies cannot run the risks of having governments concur in arms control decisions without the discerning expert counsel of the leaders of the sea services. These **are** difficult and unpalatable issues for the Navy but so were the budget cuts that resulted in the Base Force -- generally without the input of the Navy.

Equally important for the Navy will be internal work within policy and intelligence divisions to devise: (1) a set of goals for the process; (2) own and allied forces and operations to be

protected; (3) other national forces and operations we would like to see regulated; and (4) the price we are willing to pay to ensure the achievement of (1) - (3).[68] This implies that naval arms control is not "played" as a non-zero sum game; indeed, the history of past arms control clearly demonstrates that it is a zero sum game that can have extremely adverse consequences on democracies negotiating with totalitarian nations.

Discussions about naval arms control are currently on-going in a series of small, but important, international conferences largely ignored by the U.S. Navy. The messages that the Navy would receive, if it attended these conferences, is mixed, however. For example, one civilian academic from Moscow's Institute of World Economy and International Relations, told a Western audience in June 1990 that the then-Soviet Union was no longer interested in naval arms control because *inter alia* it had more important things to do.[69] Two years later, another Russian civilian delivered the opposite message.

Naval arms control, however, involves more than just the U.S. and Russia. Indeed, it would appear that many other nations are developing their own naval arms control regimes in regional areas without the participation of these two countries. The risk, of course, is that these regional agreements will eventually involve the U.S. Navy but in a manner that will not be obvious. For example, if a regional group of nations first elect to regulate transit by merchant ships through straits, in order to protect those ships from piracy and to protect the environment, it is unlikely that the U.S. government would object. Once that precedent has been agreed to, however, a next step might be to regulate oceanographic research vessels and oilers serving as naval auxiliaries.

Obviously the U.S. government would consider such actions more serious and might even object. The political guidance to the U.S. Navy, however, might be that other considerations are more important with those nations and restrictions on freedom of navigation is an acceptable price to pay. The point is that these kind of discussions are ongoing in the world and the U.S. Navy generally is not a participant.

If the U.S. Navy remains aloof from discussions of naval arms control, it is possible that a new model will develop for American military participation in international politics. This new model is prevalent in other nations; a model wherein academics and the politically aware public debate issues, influencing the government through elected officials and decision makers, with the bureaucracy expected to enforce these decisions.

It appears that the U.S. Navy has become a full partner in the Department of the Defense and embraced "jointness."[70] That being the case, there is little further role for claims that "naval warfare must be considered unique," and this uniqueness justifies the attitude of exempting naval forces from arms control constraints.[71] Naval warfare is not unique and there is no

inherent reason to exclude naval forces from the debates over arms control that are on-going in the world.

We must disclaim the perception that the U.S. is stonewalling on arms control,[72] if only to ensure that the train does not leave the station without the fleet. Navies should not float outside the mainstream political process involving possible arms control but must explain frankly and in uncomplicated terms to those more comfortable with military operations ashore why certain concepts are not transferable to the sea services. It is not up to the land-oriented to learn about the sea but rather for the fleet to explain its special circumstances to others. The U.S. Navy **cannot** refuse to participate in the naval arms control process -- after all, we are already doing it!

Perhaps the subject of naval arms control will present itself within the new administration or within the Democratic-controlled Congress. If the new administration is serious about the subject, it will wrest control of this issue from the Navy and move it to the Arms Control and Disarmament Agency (ACDA) or some other agency of the government. This may be the only way to force the Navy to address the issue, since it appears that it will not do so on its own. The question that the Navy must ask itself is if it is better to be in the tank with the sharks when trying to save the fleet or outside looking in? The Navy that I know has always been willing to stand tall under extreme conditions of adversity. It should do so again.

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Dr. Roger Barnett 1
Captain, U.S. Navy (Ret.)
National Security Research (NSR)
Suite 330
3031 Javier Road
Fairfax, VA 22031

Commodore Sam Bateman, RAN 1
Department of Defence
Russell Offices
Constitution Avenue
Canberra ACT 2600
AUSTRALIA - *via air mail* -

Captain Robert Bathurst, USN (Ret.) 1
International Peace Research Institute (PRIO)
Fuglehauggata 11
0260 Oslo 2
NORWAY - *via air mail* -

Dr. Al Bernstein 1
Institute for National Security Studies
National Defense University (NDU)
Ft. Leslie J. McNair
Washington, D.C. 20319-6000

James Blaker 1
Center for Naval Analyses (CNA)
4401 Ford Avenue
Alexandria, VA 22301

Dr. Barry Blechman 1
The Brookings Institution
1775 Massachusetts Ave., N.W.
Washington, D.C. 20036

Derek G. Boothby 1
Room 3150J
Department for Disarmament Affairs
United Nations
New York, NY 10017

Commander R. Mitchell Brown, USN 2
OP-06 Chair of Strategic Planning
Code NS/Br
Naval Postgraduate School (NPS)
Monterey, CA 93943-5100

Lieutenant Paul Brown, USN 1
c/o Chris Brown
328 Knollglen
Irvine, CA 92714

Dr. Thomas C. Bruneau 1
Chairman - Code NS/Bn
Department of National Security Affairs
Naval Postgraduate School (NPS)
Monterey, CA 93943-5100

Captain James Bryant, USN 1
Ocean Policy Branch
N-514G Pnt Room 4E577
Office of the Chief of Naval Operations
Washington, DC 20350-2000

LCDR Buck Buesking/LT David Lehane, USN 1
N-514 Pnt Room 4D562
Office of the Chief of Naval Operations
Washington, DC 20350-2000

Lieutenant Commander Al Cole, RCN 1
Directorate for Nuclear & Arms Control
Policy - 12th NT
National Defence Headquarters
MG George R. Pearkes Bldg.
101 Colonel By Drive
Ottawa, Ontario K1A OK2
CANADA - *via air mail* -

Fred Crickard 1
Rear Admiral, RCN (Ret.)
Centre for Foreign Policy Studies
Dalhousie University
Halifax, Nova Scotia B3H 4H6
CANADA - *via air mail* -

Captain Dennis P. Curry, USN 1
Strategic Concepts Branch
N-513 Pnt 4E514
Office of the Chief of Naval Operations
Washington, DC 20350-2000

Dr. Donald C. Daniel 1
Chairman, Campaign and Strategy Department
Center for Naval Warfare Studies (CNWS)
Naval War College (NWC)
Newport, RI 02841-5010

Marie-France Desjardins 1
Canadian Institute for International Peace
& Security
360 Albert, Suite 900
Ottawa, Ontario K1R 7X7
CANADA - *via air mail* -

Dr. Athanassios Drougos 1
Naval War College
Constantinopoleos 27
TT 15562 - Holargos - Athens
GREECE - *via air mail* -

Dr. Robert Friedheim 1
6505 Esplanade, #4
Playa del Rey, CA 90293

Dr. Henry H. Gaffney, Jr. 1
Concepts Development Group
Strategy and Forces Division
Center for Naval Analyses (CNA)
4401 Ford Avenue
Alexandria, VA 22301

Dr. James George 1
United States Institute of Peace
1550 M Street, N.W., Suite 700
Washington, D.C. 20005-1708

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International Studies
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RANSWARS
HMAS Watson
Watson's Bay NSW 2030
AUSTRALIA - *via air mail* -

Lieutenant Commander Niel L. Golightly, USN 1
Special Assistant to the Chairman
Office of the Chairman of the
Joint Chiefs of Staff (JCS)
Pentagon Room 2E840
Washington, D.C. 20318-0001

Peter Gratton 1
Director, Arms Control
Office of the Assistant Secretary of the Navy
R&D, Acquistion, International Policy
Navy Department
Washington, D.C. 20350-1000

Dr. Eric Grove 1
Foundation for International Security
41 Martin Grove
Morden Surrey SM4 5AJ
UNITED KINGDOM - *via air mail* -

Dr. Gary Guertner 1
Strategic Studies Institute (SSI)
U.S. Army War College
Box 437
Carlisle Barracks, PA 17013

Captain Keith Hahn, USN 1
Director, Defense Policy
OEB Room 380
National Security Council (NSC) Staff
17 Pennsylvania Avenue
Washington, DC 20506

Dr. Grant T. Hammond 1
Chairman, National Security Studies
Professor of International Relations
Air War College
Maxwell Air Force Base, AL 36112-5522

Commodore Dato' Tuan Hasim Tuan Mohamad 1
Director, Maritime Enforcement Coordinating Ctr.
Prime Minister's Department
Pangkalan TLDM
32100 Lumut
Kuala Lumpur MALAYSIA - *via air mail* -

J.R. Hill 1
Rear Admiral, Royal Navy (Ret.)
Cornhill House
The Hangers
Bishops Waltham
Southampton S03 1EF
UNITED KINGDOM - *via air mail* -

Robert P. Hinton 1
Rear Admiral, U.S. Navy (Ret.)
Institute for Defense Analyses (IDA)
1801 N. Beauregard St.
Alexandria, VA 22311

Douglas M. Johnson 1
Vice President/Chief Operating Officer
Center for Strategic and International Studies
Georgetown University
1800 K Street, N.W.
Washington, D.C. 20006

Dr. Stuart E. Johnson 1
Director
Strategic Concepts Development Center (SCDC)
National Defense University (NDU)
Ft. Leslie J. McNair
Washington, D.C. 20319-6000

Pauline Kerr 1
Research School of Pacific Studies
Department of International Relations
The Australian National University
GPO Box 4
Canberra, ACT 2601 AUSTRALIA - *via air mail* -

Lieutenant Commander Lui Tuck Yew 1
HQ Republic of Singapore Navy
MINDEF Building
Gombak Drive
Singapore 2366
REPUBLIC OF SINGAPORE - *via air mail* -

Dr. James MacIntosh 1
Center for International & Strategic Studies
York University
4700 Keele Street
North York, Ontario M3J 1P3
CANADA - *via air mail* -

Professor Andrew Mack 1
Research School of Pacific Studies
Department of International Relations
The Australian National University
GPO Box 4
Canberra, ACT 2601 AUSTRALIA - *via air mail* -

Captain 1st Rank (Retired) Boris N. Makeyev 1
Department on Disarmament
Institute of World Economy and
International Relations (IMEMO)
Academy of Sciences
23, Profsoyuznaya str.
Moscow 117418 RUSSIA - *via air mail* -

Mr. Thomas Marshall 1
Manager, Stability and the Offense/Defense
Relationship Program
Science Applications International Corporation
1710 Goodridge Drive
P.O. Box 1303
McLean, VA 22102

Captain Michael Martus, USN 1
Executive Director
OP-00K, CNO Executive Panel
Center for Naval Analyses (CNA)
4401 Ford Avenue
Alexandria, VA 22302

Ambassador Peggy Mason 1
Department of External Affairs
125 Sussex Drive
Ottawa, Ontario K1A 0G2
CANADA - *via air mail* -

Dr. Kleber S. Masterson 1
Rear Admiral, U.S. Navy (Ret.)
Senior Vice President
Science Applications International Corporation
1710 Goodridge Drive
P.O. Box 1303
McLean, Virginia 22102

Dr. Charles A. Meconis 1
Program & Research Director
Institute for Global Security Studies (IGSS)
225 North 70th Street
Seattle, WA 98103

Commander Robert M. Meissner, USN 1
Executive Director
General Advisory Committee on Arms Control &
Disarmament
Arms Control & Disarmament Agency (ACDA)
Department of State
Washington, D.C. 20451

Dr. Edward Miles 1
Director, School of Marine Affairs, HF-05
University of Washington
3707 Brooklyn Ave., N.E.
Seattle, Washington 98195

Ron O'Rourke 1
Congressional Research Service
CRS/F, LM-315
Madison Building
Library of Congress
Washington, D.C. 20540

Commander Desley Sant Parker, USN 1
International Political and Economic
Relations Division
United States Information Agency (USIA)
310 4th Street, S.W., Room 558
Washington, D.C. 20547

Ron Purver 1
1196 Sherman Drive
Ottawa, Ontario K2C 2M6
CANADA - *via air mail* -

Dr. Robin Ranger 1
4701 Willard Avenue, #1216
Chevy Chase, MD 20815-4625

Captain Rhee, Chin Sung, ROK Navy 1
Combined Defense Policy Division
Policy and Plans Office
Ministry of National Defense
Yong-san Seoul
KOREA - *via air mail* -

Michael Rich 1
Vice President, National Security Research
The RAND Corporation
1700 Main Street
P.O. Box 2138
Santa Monica, CA 90406-2138

Lieutenant Commander Jan Rivenburg, USN 1
3227 McKinney Ave., #19D
Dallas, TX 75204-2429

Dr. Scott Sagan 1
Department of Political Science
Building 160 Room 162D
Stanford University
Stanford, CA 94305

Vice Admiral Naotishi Sakonjo, JMSDF (Ret.) 1
Research Institute for Peace & Security
Rappongi Denki Building, 7F
6-1-20 Roppongi
Minato-ku
Tokyo 106
JAPAN - *via air mail* -

Shannon Selin 1
Department of External Affairs
125 Sussex Drive
Ottawa, Ontario K1A 0G2
CANADA - *via air mail* -

Kusuma Snitwongse 1
Executive Director - Thailand Institute of
Public and International Affairs
1041 2nd Floor, Phaholythin Road
Phayathai
Bangkok 10400
THAILAND - *via air mail* -

Dr. Georgi Sturua 1
Institute of World Economy and
International Relations (IMEMO)
Academy of Sciences
23, Profsoyuznaya str.
Moscow 117418
RUSSIA - *via air mail* -

Igor Sutyagin 1
Institute for the USA and Canada Studies
2/3 Khlebny per
Moscow 121069 RUSSIA - *via air mail* -

Ming Cheung Tai 1
Far Eastern Economic Review
Editorial Department, GPO Box 160
HONG KONG

Lieutenant Commander Sam Tangredi, USN 1
Executive Officer
USS Fort McHenry (LSD-43)
FPO San Francisco, CA 96665-1731

Dr. Geoffrey Till 1
Department of History and International Affairs
Royal Naval College - Greenwich
London SE1 09NN
UNITED KINGDOM - *via air mail* -

Dr. Roland M. Timerbaev 1
Ambassador in Residence
Monterey Institute of International Studies (MIIS)
425 Van Buren Street
Monterey, CA 93940

Dr. James J. Tritten, Associate Professor 20
Commander, U.S. Navy (Ret.)
Department of National Security Affairs (NS/Tr)
Naval Postgraduate School (NPS)
Monterey, CA 93943-5100

Dr. Henry Trofimenko 1
Campus Box 2350
Elon College, NC 27244

Ola Tunander 1
International Peace Research Institute (PRIO)
Fuglehauggata 11
N-0260 Oslo 2
NORWAY - *via air mail* -

Dr. Bakhtiyar Tuzmukhamedov 1
Constitutional Court of the Russian Federation
21, Ulitsa Ilyinka
Moscow 103132
RUSSIA - *via air mail* -

Dr. Harlan K. Ullman 1
Commander, U.S. Navy, Retired
Center for Naval Analyses (CNA)
4401 Ford Avenue
Alexandria, Virginia 22302

Ole Waever 1
Senior Research Fellow
Centre for Peace and Conflict Research
Vandkunsten 5
DK-1467 Copenhagen K, DENMARK - *via air mail* -

Professor Michael D. Wallace 1
Department of Political Science
C472 - 1866 Main Mall
The University of British Columbia
Department of Political Science
Vancouver, British Columbia V6T 1Z1
CANADA - *via air mail* -

Wang Qi 1
Advisory Research Fellow
International Strategy & Security Division
China Center for International Studies
22 Xianmen Avenue
P.O. Box 1744
Beijing 100017
PEOPLE'S REPUBLIC OF CHINA - *via air mail* -

Dr. Stanley Byron Weeks 1
Commander, U.S. Navy (Ret.)
Science Applications International Corporation
1710 Goodridge Drive
P.O. Box 1303
McLean, Virginia 22102

Dr. John A. Williams 1
Department of Political Science
Loyola University of Chicago
6525 N. Sheraton Rd.
Chicago, IL 60626

Patti Willis 1
Pacific Campaign for Disarmament & Security
3780 Lake Road
Denman Island, B.C. VOR 1TO
CANADA - *via air mail* -

Captain G.A.S.C. Wilson, RN 1
Head of Defence Studies (RN)
Room 5391 Main Building
Ministry of Defence, Whitehall
London SW1A 2MB
UNITED KINGDOM - *via air mail* -

James Winnefeld 1
Rear Admiral, U.S. Navy (Ret.)
The RAND Corporation
2100 M Street, N.W., Suite 800
Washington, D.C. 20037-1270

Chairman 1
Department of National Security and Strategy
U.S. Army War College
Box 484
Carlisle Barracks, PA 17013-5050

Chairman, Department of Strategy 1
National War College (NWC)
Ft. Leslie J. McNair
Washington, D.C. 20319-6000

Army Library 1
Room 1A518
The Pentagon
Washington, D.C. 20310-0001

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Air War College
Maxwell AFB, AL 36112

Library 1
Armed Forces Staff College (AFSC)
7800 Hampton Blvd.
Norfolk, VA 23511-6097

Library 1
Army Command & General Staff College (AC&GSC)
Ft. Leavenworth, KS 66027

Library 1
Army War College
Carlisle Barracks, PA 17013-5050

Library of Congress 1
Attn: Sherry Shapiro
LM - 221
Washington, D.C. 20540

Library 1
Center for Naval Analyses (CNA)
4401 Ford Avenue
Alexandria, VA 22302

Library 1
International Institute for Strategic Studies
23 Tavistock Street
London WC2E 7NQ
UNITED KINGDOM - *via air mail* -

Library 1
National War College (NWC)
Ft. Leslie J. McNair
Washington, D.C. 20319-6000

Library 1
Naval War College
Newport, R.I. 02841

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1700 Main Street
P.O. Box 2138
Santa Monica, CA 90406-2138

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Royal United Services Institute for
Defence Studies (RUSI)
Whitehall, London SW1A 2ET
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